

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

Agenda E-18 (Appendix B)
Rules
September 2004

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TO: Honorable David F. Levi, Chair
Standing Committee on Rules of Practice
and Procedure

FROM: Honorable A. Thomas Small, Chair
Advisory Committee on Bankruptcy Rules

DATE: May 17, 2004

RE: Report of the Advisory Committee on Bankruptcy Rules

I. Introduction

The Advisory Committee on Bankruptcy Rules met on March 25-26, 2004, at Amelia Island, Florida. The Advisory Committee considered public comments regarding the preliminary draft of proposed amendments to Bankruptcy Rules 1007, 3004, 3005, 4008, 7004, and 9006 that were published in August 2003. The Advisory Committee received only seven comments on the proposed amendments to the Rules, and the comments are summarized later in this report. Since no person who submitted a written comment requested to appear at the public hearing scheduled for January 30, 2004, the hearing was canceled. The Advisory Committee recommends that the Standing Committee approve the amendments and transmit them to the Judicial Conference. The proposed amendments and the comments received thereon are set out below in the Action Items section of this report.

Amendments to three Official Forms, Forms 6-G, 16D, and 17, also are recommended for approval by the Standing Committee and transmission to the Judicial Conference. The amendments to Forms 16D and 17 are technical in nature and are necessary because of a previous amendment effective December 1, 2003, that abrogated Official Form 16C. These amendments are recommended

Report of the Advisory Committee on Bankruptcy Rules

May 17, 2004

Page 2

with an effective date of December 1, 2004. The amendments to Official Form 6-G are necessary because of the amendment proposed to Rule 1007 that will become effective no sooner than December 1, 2005. Thus, the recommended effective date for the amendments to Official Form 6-G is December 1, 2005.

The Advisory Committee also studied a number of proposals to amend the Bankruptcy Rules. After careful consideration, the Advisory Committee resolved to recommend that the Standing Committee approve for publication a preliminary draft of proposed amendments to Bankruptcy Rules 1009, 2002, 4002, 7004, and 9001, and to Schedule I of Official Form 6. The Style Consultants to the Standing Committee offered a number of suggestions that were considered by the Advisory Committee's Style Subcommittee, and the proposals set out below in the Action Items section of the report reflect those joint efforts.

II Action Items

- A. Proposed Amendments to Bankruptcy Rules 1007, 3004, 3005, 4008, 7004, and 9006, and Official Forms 6, 16D, and 17 Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference.

The Advisory Committee on Bankruptcy Rules recommends that the Standing Committee approve the following amendments for submission to the Judicial Conference.

1. *Public Comment.*

The preliminary draft of the proposed amendments to Bankruptcy Rules 1007, 3004, 3005, 4008, 7004, and 9006 was published for comment in August 2003. A public hearing on the preliminary draft was scheduled for January 30, 2004, but there were no requests to appear at the hearing. There were only seven comments on the proposals, and they are summarized below immediately following each of the rules to which the particular comment applied. The Advisory Committee reviewed these comments and approved the amendments to the rules either as published or with slight changes that are described in the Changes Made After Publication section.

2. *Synopsis of Proposed Amendments:*

- (a) Rule 1007 is amended to require the debtor in a voluntary case to submit with the petition a list of entities to which notices will be sent in the case. The listed parties are identified as the entities listed or to be listed on Schedules D through H of the Official Forms.
- (b) Rule 3004 is amended to conform the rule to § 501(c) of the Bankruptcy Code. The amendment clarifies that the debtor or trustee may not file a proof of claim until after the time for filing a proof by a particular creditor has expired.
- (c) Rule 3005 is amended to delete any reference to a creditor filing a proof of claim that supersedes a claim filed on

behalf of the creditor by a codebtor. The amendment thus conforms the rule to § 501(b) of the Bankruptcy Code.

- (d) Rule 4008 is amended to establish a deadline for filing a reaffirmation agreement with the court. The amendment deletes the former provision of the rule that governed the timing of the reaffirmation agreement and discharge hearing. These restrictions on the court's docket are unduly burdensome and the amendment provides the court with the discretion to set and hold these hearings at appropriate times in the circumstances presented in the case.
- (e) Rule 7004 is amended to authorize the clerk specifically to sign, seal, and issue a summons electronically. The amendment does not address the service requirements for a summons which are set out in other provisions of Rule 7004.
- (f) Rule 9006 is amended to clarify that the three day period is added to the end of the time period for taking action when service is accomplished through certain specified means. This amendment is intended to conform as closely as possible to the amendment being proposed by the Advisory Committee on Civil Rules.
- (g) Schedule G of Official Form 6 is amended to delete the note that informed the preparer of the Schedule that the entities listed on the schedule would not automatically receive notice of the case. The amendment to Rule 1007 will require the person who prepares the schedules to list

the entities on the mailing matrix of persons to whom notice of the case will be sent.

- (h) Official Form 16D is amended to conform to the changes made by the December 1, 2003, abrogation of Official Form 16C.
- (i) Official Form 17 is amended to conform to the changes made by the December 1, 2003, abrogation of Official Form 16C.

3. *Text of Proposed Amendments to Rules 1007, 3004, 3005, 4008, 7004, and 9006.*

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE***

Rule 1007. Lists, Schedules, and Statements; Time Limits

1 (a) LIST OF CREDITORS AND EQUITY SECURITY
2 HOLDERS, AND CORPORATE OWNERSHIP
3 STATEMENT.

4 (1) *Voluntary Case.* In a voluntary case, the debtor
5 shall file with the petition a list containing the name and
6 address of each creditor ~~unless the petition is accompanied by~~
7 ~~a schedule of liabilities~~ entity included or to be included on
8 Schedules D, E, F, G, and H as prescribed by the Official
9 Forms. If the debtor is a corporation, other than a
10 governmental unit, the debtor shall file with the petition a
11 corporate ownership statement containing the information
12 described in Rule 7007.1. The debtor shall file a

*New material is underlined; matter to be omitted is lined through.

2 FEDERAL RULES OF BANKRUPTCY PROCEDURE

13 supplemental statement promptly upon any change in
14 circumstances that renders the corporate ownership statement
15 inaccurate.

16 (2) *Involuntary Case.* In an involuntary case, the
17 debtor shall file within 15 days after entry of the order for
18 relief, a list containing the name and address of each creditor
19 ~~unless a schedule of liabilities has been filed~~ entity included
20 or to be included on Schedules D, E, F, G, and H as
21 prescribed by the Official Forms.

22 * * * * *

23 (c) TIME LIMITS. In a voluntary case, the The
24 schedules and statements, other than the statement of
25 intention, shall be filed with the petition ~~in a voluntary case,~~
26 ~~or if the petition is accompanied by a list of all the debtor's~~
27 ~~creditors and their addresses,~~ within 15 days thereafter, except
28 as otherwise provided in subdivisions (d), (e), (f), and (h) of
29 this rule. In an involuntary case, the list in subdivision (a)(2),

43 * * * * *

Rules App. B-8

4 FEDERAL RULES OF BANKRUPTCY PROCEDURE
47 liabilities, schedule of current income and expenditures,
48 schedule of executory contracts and unexpired leases, and
49 statement of financial affairs of the partnership. The court
50 may order any general partner to file a statement of personal
51 assets and liabilities within such time as the court may fix.

52 * * * * *

COMMITTEE NOTE

Notice to creditors and other parties in interest is essential to the operation of the bankruptcy system. Sending notice requires a convenient listing of the names and addresses of the entities to whom notice must be sent, and virtually all of the bankruptcy courts have adopted a local rule requiring the submission of a list of these entities with the petition and in a particular format. These lists are commonly called the "mailing matrix."

Given the universal adoption of these local rules, the need for such lists in all cases is apparent. Consequently, the rule is amended to require the debtor to submit such a list at the commencement of the case. This list may be amended when necessary. *See* Rule 1009(a).

The content of the list is described by reference to Schedules D through H of the Official Forms rather than by reference to creditors or persons holding claims. The cross reference to the Schedules as the source of the names for inclusion in the list ensures that persons such as codebtors or nondebtor parties to executory contracts and unexpired leases will receive appropriate notices in the case.

While this rule renders unnecessary, in part, local rules on the subject, this rule does not direct any particular format or form for the list to take. Local rules still may govern those particulars of the list.

Subdivision (c) is amended to reflect that subdivision (a)(1) no longer requires the debtor to file a schedule of liabilities with the petition in lieu of a list of creditors. The filing of the list is mandatory, and subdivision (b) of the rule requires the filing of schedules. Thus, subdivision (c) no longer needs to account for the possibility that the debtor can delay filing a schedule of liabilities when the petition is accompanied by a list of creditors. Subdivision (c) simply addresses the situation in which the debtor does not file schedules or statements with the petition, and the procedure for seeking an extension of time for filing.

Other changes are stylistic.

Public Comment on Proposed Amendments to Rule 1007:

No comments were received on these proposed amendments.

Changes Made After Publication and Comment:

No changes since publication.

Rule 3004. Filing of Claims by Debtor or Trustee

- 1 If a creditor ~~fails to file~~ does not timely file a proof of
2 claim under Rule 3002(c) or 3003(c), ~~on or before the first~~
3 ~~date set for the meeting of creditors called pursuant to~~

6 FEDERAL RULES OF BANKRUPTCY PROCEDURE
4 ~~§ 341(a) of the Code~~, the debtor or trustee may ~~do so in the~~
5 ~~name of the creditor~~, file a proof of the claim within 30 days
6 after the expiration of the time for filing claims prescribed by
7 Rule 3002(c) or 3003(c), whichever is applicable. The clerk
8 shall forthwith ~~mail~~ give notice of the filing to the creditor,
9 the debtor and the trustee. ~~A proof of claim filed by a creditor~~
10 ~~pursuant to Rule 3002 or Rule 3003(c), shall supersede the~~
11 ~~proof filed by the debtor or trustee.~~

COMMITTEE NOTE

The rule is amended to conform to § 501(c) of the Code. Under that provision, the debtor or trustee may file proof of a claim if the creditor fails to do so in a timely fashion. The rule previously authorized the debtor and the trustee to file a claim as early as the day after the first date set for the meeting of creditors under § 341(a). Under the amended rule, the debtor and trustee must wait until the creditor's opportunity to file a claim has expired. Providing the debtor and the trustee with the opportunity to file a claim ensures that the claim will participate in any distribution in the case. This is particularly important for claims that are nondischargeable.

Since the debtor and trustee cannot file a proof of claim until after the creditor's time to file has expired, the rule no longer permits the creditor to file a proof of claim that will supersede the claim filed by the debtor or trustee. The rule leaves to the courts the issue of

whether to permit subsequent amendment of such proof of claim.

Other changes are stylistic.

Public Comment on Proposed Amendments to Rule 3004:

1. Mr. Mark Van Allsburg, clerk of the bankruptcy court for the District of Hawaii, in Comment 03-BK-004, suggested that the rule should be amended to require that the debtor or trustee who files a proof of claim should be required to notify the holder of the claim that a proof its claim has been filed.

Changes Made After Publication and Comment:

No changes were made after publication. The Advisory Committee concluded that Mr. Van Allsburg's suggestion goes beyond the scope of the published proposal. Consequently, the Committee declined to adopt the suggestion but may consider it in greater detail at a future meeting.

Rule 3005. Filing of Claim, Acceptance, or Rejection by Guarantor, Surety, Indorser, or Other Codebtor

- 1 (a) FILING OF CLAIM. If a creditor does not timely file
- 2 ~~has not filed~~ a proof of claim under pursuant to Rule 3002(c)
- 3 or 3003(c), any entity that is or may be liable with the debtor
- 4 to that creditor, or who has secured that creditor, ~~may~~, may
- 5 file a proof of the claim within 30 days after the expiration of

8 FEDERAL RULES OF BANKRUPTCY PROCEDURE

6 the time for filing claims prescribed by Rule 3002(c) or Rule
7 3003(c) whichever is applicable, ~~execute and file a proof of~~
8 ~~claim in the name of the creditor, if known, or if unknown, in~~
9 ~~the entity's own name.~~ No distribution shall be made on the
10 claim except on satisfactory proof that the original debt will
11 be diminished by the amount of distribution. ~~A proof of~~
12 ~~claim filed by a creditor pursuant to Rule 3002 or 3003(c)~~
13 ~~shall supersede the proof of claim filed pursuant to the first~~
14 ~~sentence of this subdivision.~~

15 * * * * *

COMMITTEE NOTE

The rule is amended to delete the last sentence of subdivision (a). The sentence is unnecessary because if a creditor has filed a timely claim under Rule 3002 or 3003(c), the codebtor cannot file a proof of such claim. The codebtor, consistent with § 501(b) of the Code, may file a proof of such claim only after the creditor's time to file has expired. Therefore, the rule no longer permits the creditor to file a superseding claim. The rule leaves to the courts the issue of whether to permit subsequent amendment of the proof of claim.

The amendment conforms the rule to § 501(b) by deleting language providing that the codebtor files proof of the claim in the name of the creditor.

Other amendments are stylistic.

Public Comment on Proposed Amendments to Rule 3005:

1. Hon. Dennis Michael Lynn, United States Bankruptcy Judge for the Northern District of Texas, in Comment 03-BK-005 suggested some stylistic changes to the rule to make it conform more closely to the language of Rule 3004, as amended. The Advisory Committee found that his suggestions improved the rule by making it consistent with the companion rule without changing the meaning of the rule. Thus, those suggestions were adopted.

Changes Made After Publication and Comment:

1. The reference on line 2 of Rule 3005 to “Rule 3002 or 3003(c)” was changed to read “Rule 3002(c) or 3003(c)” to make it parallel to the language in Rule 3004.
2. The phrase “file a proof of the claim” from line 7 of the proposed rule was moved up to line 4 of the proposed amendment immediately after the word “may”. This makes the structure of Rules 3004 and 3005 more consistent.

Rule 4008. Discharge and Reaffirmation Hearing Filing of Reaffirmation Agreement

- 1 A reaffirmation agreement shall be filed not later than 30
- 2 days after the entry of an order granting a discharge or
- 3 confirming a plan in a chapter 11 reorganization case of an

10 FEDERAL RULES OF BANKRUPTCY PROCEDURE
4 individual debtor. The court, for cause, may extend the time,
5 and leave shall be freely given when justice so requires. Not
6 more than 30 days following the entry of an order granting or
7 denying a discharge, or confirming a plan in a chapter 11
8 reorganization case concerning an individual debtor and on
9 not less than 10 days notice to the debtor and the trustee, the
10 court may hold a hearing as provided in § 524(d) of the Code.
11 A motion by the debtor for approval of a reaffirmation
12 agreement shall be filed before or at the hearing.

COMMITTEE NOTE

The rule is amended to establish a deadline for filing reaffirmation agreements. The Code sets out a number of prerequisites to the enforceability of reaffirmation agreements. Among those requirements are that the agreements be entered into prior to the discharge and that they be filed with the court. Since the parties must make their agreement prior to the entry of the discharge, they will have at least 30 days to file the agreement with the court. Requiring the filing of reaffirmation agreements by a certain deadline also serves to inform the court of the need to hold a hearing under § 524(d) whenever the agreement is not accompanied by an appropriate declaration or affidavit from counsel for the debtor.

The rule allows any party to the agreement to file it with the court. Thus, whichever party has a greater incentive to enforce the agreement usually will file it. In the event that the parties fail to timely file the reaffirmation agreement, the rule grants the court broad discretion to permit a late filing.

The rule also is amended by deleting the provisions formerly in the rule regarding the timing of the reaffirmation and discharge hearing. Instead, the rule leaves discretion to the courts to set the hearing at a time appropriate for the particular circumstances presented in the case and consistent with the scheduling needs of the parties.

Public Comment on Proposed Amendments to Rule 4008:

1. Judge Robert E. Grant, United States Bankruptcy Judge for the Northern District of Indiana, in Comment 03-BK-002 expressed support for the adoption of a deadline for the filing of the agreements, but he took issue with the deadline set in the proposed amendment. Specifically, he expressed concern that the rule allowing the agreements to be filed post-discharge will create problems for the courts that will be called upon to determine whether the agreement was made prior to the entry of the discharge as required by the Code. His proposal was to require that the reaffirmation agreement be filed prior to the entry of the discharge in order to avoid this type of litigation.
2. Mr. Henry J. Sommer, a former member of the Committee, submitted Comment 03-BK-003. Mr. Sommer argued that the discharge date is a better deadline for filing the reaffirmation agreement also because in some jurisdictions

12 FEDERAL RULES OF BANKRUPTCY PROCEDURE

the cases are closed very quickly after the entry of the discharge. He suggested that if the Committee proceeds with the thirty day post-discharge deadline, that the Committee should amend Rule 5009 to prohibit the closing of cases until 30 days after the entry of the discharge.

3. Mr. Van Allsburg, the Clerk of the Bankruptcy Court for the District of Hawaii, also urged the Committee not to provide a post-discharge deadline for filing reaffirmation agreements in his Comment 03-BK-004. Mr. Van Allsburg noted that the proposed deadlines will extend the life of cases and prevent the clerk from closing the cases as quickly as is done under the current practice. He stated that the delay in the closing of the case also will postpone creditor collection efforts that § 362 (c)(2)(A) would allow once the case is closed.

Changes Made After Publication and Comment:

No changes were made after publication. The Advisory Committee considered the public comments and concluded that the rule should allow post discharge filing of reaffirmation agreements notwithstanding the issues raised in the public comments. In particular, the Committee recognized the problems that can arise if the reaffirmation agreement is not filed until 30 days after the discharge is entered. Nevertheless, the post-discharge filing of the reaffirmation agreement should not itself require the reopening of the case, so the prior action of closing the case should not be too problematic. The filing of a reaffirmation agreement without a declaration or affidavit by counsel for the debtor will inform the court that a hearing must be scheduled, but again may not require a reopening of the case.

The Advisory Committee considered the timing of the filing and selected thirty days after the discharge for several reasons. Most significantly, the timing of the entry of the discharge is subject to local practice, and in many districts the discharge order is entered quite early in a case. The debtor and creditor who are parties to the reaffirmation agreement may not know when the order will be entered, and if the agreement is made before that time, it should still be enforceable even if it takes a bit longer to accomplish the filing of the agreement with the court. Moreover, the fairly short time after the entry of the discharge that is allowed for filing the agreement should not delay the proceedings generally, and it should bring whatever applicable issues need to be addressed to the attention of the bankruptcy court in a timely fashion. Nothing in the rule as amended would prevent the clerk from closing the case as expeditiously as under current practice. Finally, any delay in the closing of the case should not postpone collection efforts of creditors because § 362(c)(2)(C) of the Bankruptcy Code would already have operated to dissolve the stay of actions against the debtor.

Rule 7004. Process; Service of Summons, Complaint

1 (a) SUMMONS; SERVICE; PROOF OF SERVICE.

2 (1) Except as provided in Rule 7004(a)(2), Rule 4(a),

3 (b), (c)(1), (d)(1), (e)-(j), (l), and (m) F.R.Civ.P. applies in

4 adversary proceedings. Personal service under pursuant to

5 Rule 4(e)-(j) F.R.Civ.P. may be made by any person at least

6 18 years of age who is not a party, and the summons may be

14 FEDERAL RULES OF BANKRUPTCY PROCEDURE

7 delivered by the clerk to any such person.

8 (2) The clerk may sign, seal, and issue a summons

9 electronically by putting an “s/” before the clerk’s name and

10 including the court's seal on the summons.

11 * * * * *

COMMITTEE NOTE

This amendment specifically authorizes the clerk to issue a summons electronically. In some bankruptcy cases the trustee or debtor in possession may commence hundreds of adversary proceedings simultaneously, and permitting the electronic signing and sealing of the summonses for those proceedings increases the efficiency of the clerk's office without any negative impact on any party. The rule only authorizes electronic issuance of the summons. It does not address the service requirements for the summons. Those requirements are set out elsewhere in Rule 7004, and nothing in Rule 7004(a)(2) should be construed as authorizing electronic service of a summons.

Public Comment on Proposed Amendments to Rule 7004:

No comments were received on these proposed amendments.

Changes Made After Publication and Comment:

No changes were made after publication.

16 FEDERAL RULES OF BANKRUPTCY PROCEDURE

Sundays, and legal holidays are excluded from the calculation under Rule 9006(a). Some illustrations may be helpful.

Under existing Rule 9006(a), assuming that there are no legal holidays and that a response is due in seven days, if a paper is filed on a Monday, the seven day response period commences on Tuesday and concludes on Wednesday of the next week. Adding three days to the end of the period would extend it to Saturday, but because the response period ends on a weekend, the response day would be the following Monday, two weeks after the filing of the initial paper. If the paper is filed on a Tuesday, the seven-day response period would end on the following Thursday, and the response time would also be the following Monday. If the paper is mailed on a Wednesday, the initial seven-day period would expire nine days later on a Friday, but the response would again be due on the following Monday because of Rule 9006(f). If the paper is mailed on a Thursday, however, the seven day period ends on Monday, eleven days after the mailing of the service because of the exclusion of the two intervening Saturdays and Sundays. The response is due three days later on the following Thursday. If the paper is mailed on a Friday, the seven day period would conclude on a Tuesday, and the response is due three days later on a Friday.

No other change in the system of counting time is intended.

Other changes are stylistic.

Public Comment on Proposed Amendments to Rule 9006:

1. Hon. Dennis Michael Lynn (B.J. N.D. Tex.) in Comment 03-BK-005 suggested that Rule 9006(b) be amended to limit an extension of time to file a proof of claim to grounds set out in

Rules 3004 and 3005. Upon review, the Advisory Committee concluded that this proposal is beyond the scope of the proposed amendment to the rule and the Committee will consider the issue at a subsequent meeting.

2. Mr. Alex Manners, Director of Product Development of Compulaw LLC, in Comment 03-BK-007 urged a change in the proposed amendments to Civil Rule 6(e) and Bankruptcy Rule 9006(f). He asserted that the amendment should refer to “calendar” days as the days that are added to the end of the prescribed response periods.
3. The Advisory Committee also received copies of comments on the proposed amendments to Civil Rule 6(e). These comments generally expressed support for the amendment and frequently included the suggestion that the rule refer to “calendar” days in much the same manner as Mr. Manners’ suggestion set out immediately above.

Changes Made After Publication and Comment:

The phrase “would otherwise expire under Rule 9006(a)” was added to the end of the rule to clarify further that the three day extension is to be added to the end of the period that is established under the counting provisions of Rule 9006(a). This also maintains a parallel construction with Civil Rule 6(e) in which the same addition to the rule was made after the public comment period.

4. *Proposed Amendments to Schedules G of Official Form 6, and Official Forms 16D and 17.*

The Advisory Committee recommends that the Standing Committee approve the amendments to

Official Forms 16D and 17, and that this approval be made effective as of December 1, 2004. The Advisory Committee also recommends that the Standing Committee approve the amendment to Official Form 6-G, and that this amendment be made effective as of December 1, 2005. The approval of Official Form 6-G is conditional on the approval of the amendments to Bankruptcy Rule 1007 set out above.

The amended Official Forms are attached to the end of this report.

Schedule G of Official Form 6 is a listing of all of the executory contracts and unexpired leases to which the debtor is a party. The Schedule formerly included a note that reminded the person completing the form that listing an entity on Schedule G would not ensure that the listed party would receive a notice of the filing of the case. The proposed amendment to Rule 1007 would make this directive inaccurate and unnecessary. Under the proposed rule, entities listed on Schedule G will receive the notice. Thus, the proposed amendment to Schedule G deletes the note. Since it implements the amendment to Rule 1007 that was published for comment, the Advisory Committee believes there is no need to publish for comment the amendment to Schedule G. It should be made effective as of December 1, 2005, along with the amendment to Rule 1007.

The abrogation of Official Form 16C in December 2003 created the need for the conforming amendments to Official Forms 16D and 17. The amendments are brief and the Advisory Committee believes that there is no need to publish the amendments for comment. These changes should be made effective as of December 1, 2004, to provide

publishers with an opportunity to have the new forms available on their effective date.

* * * * *

ATTACHMENTS:

Schedule G of Official Form 6
Official Forms 16D and 17

* * * * *

COMMITTEE NOTE

The form is amended to implement an amendment to Rule 1007 by deleting the instruction that parties to these contracts and leases will not receive notice of the bankruptcy case unless they are listed on one of the schedules of liabilities. Even though a contract or lease may be an asset of the debtor or the debtor may be current on any lease or contract payment obligations, other parties to these transactions may have an interest in the bankruptcy case and should receive notice.

**Form 16D. CAPTION FOR USE IN ADVERSARY PROCEEDING
~~OTHER THAN FOR A COMPLAINT FILED BY A DEBTOR~~**

United States Bankruptcy Court

_____ District Of _____

In re _____)	
<i>Debtor</i>)	Case No. _____
)	
)	
_____)	Chapter _____
<i>Plaintiff</i>)	
)	
)	
)	
_____)	Adv. Proc. No. _____
<i>Defendant</i>)	

COMPLAINT [*or* other Designation]

[If in a Notice of Appeal (see Form 17) or other notice filed and served by a debtor, this caption must be altered to include the debtor's address and Employer's Tax Identification Number(s) or last four digits of Social Security Number(s) as in Form 16EA.]

COMMITTEE NOTE

The form is amended to reflect the 2003 abrogation of Form 16C. As a complaint initiating an adversary proceeding serves as a notice to the defendant of the filing of an action, a debtor filing an adversary proceeding must follow the notice requirements of § 342(c) of the Code. To protect individual privacy a debtor should use the defendant's copy of the summons to be served with the complaint to provide the information required by § 342(c) to any creditor named as a defendant.

United States Bankruptcy Court

_____ District Of _____

In re _____,
Debtor

Case No. _____

Chapter _____

[Caption as in Form 16A, 16B, ~~16C~~, or 16D, as appropriate]

NOTICE OF APPEAL

_____, the plaintiff *[or defendant or other party]* appeals under 28 U.S.C. § 158(a) or (b) from the judgment, order, or decree of the bankruptcy judge (describe) entered in this adversary proceeding *[or other proceeding, describe type]* on the _____ day of _____, _____ (month) (year).

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Dated: _____

Signed: _____
Attorney for Appellant (or Appellant, if not represented by an Attorney)

Attorney Name: _____

Address: _____

Telephone No: _____

If a Bankruptcy Appellate Panel Service is authorized to hear this appeal, each party has a right to have the appeal heard by the district court. The appellant may exercise this right only by filing a separate statement of election at the time of the filing of this notice of appeal. Any other party may elect, within the time provided in 28 U.S.C. § 158(c), to have the appeal heard by the district court.

If a child support creditor or its representative is the appellant, and if the child support creditor or its representative files the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

COMMITTEE NOTE

The form is amended to reflect the 2003 abrogation of Form 16C.